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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. ID-2004 64021

SANDHYA DHARMADAS
711 Shell Blvd., #206B
Foster City, CA 94404

A C C U S A T I O N

Physical Therapist License No. PT 25688

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about November 13, 2000, the Physical Therapy Board of California issued Physical Therapist License Number PT 25688 to SANDHYA DHARMADAS ("Respondent" or "Dharmadas"). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2006, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:

“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

5. Section 2630 of the Code states:

“It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked license issued under this chapter.

“Nothing in this section shall restrict the activities authorized by their licenses on the part of any persons licensed under this code or any initiative act, or the activities authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7 (commencing with Section 3500). A physical therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of physical therapy. "Patient-related task" means a physical therapy service rendered directly to the patient by an aide , excluding non-patient-related tasks. "Non-patient-related task" means a task related to observation of the patient, transport of the patient, physical support only during gait or transfer training, housekeeping duties, clerical duties, and similar functions. The aide shall at all times be under the orders, direction, and immediate supervision of the physical therapist. Nothing in this section shall authorize an aide to independently perform physical therapy or any physical therapy procedure. The board shall adopt regulations that set forth the standards and requirements for the orders, direction, and immediate supervision of an aide by a physical therapist. The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as,

1 and in proximity to, the location where the aide is performing patient-related tasks, and
2 shall be readily available at all times to provide advice or instruction to the aide. When
3 patient-related tasks are provided to a patient by an aide, the supervising physical
4 therapist shall, at some point during the treatment day, provide direct service to the
5 patient as treatment for the patient's condition, or to further evaluate and monitor the
6 patient's progress, and shall correspondingly document the patient's record.

7 “The administration of massage, external baths, or normal exercise not a part of a
8 physical therapy treatment shall not be prohibited by this section”.

9 6. Section 2660 of the Code states:

10 “The board may, after the conduct of appropriate proceedings under the
11 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
12 impose probationary conditions upon, or issue subject to terms and conditions any
13 license, certificate, or approval issued under this chapter for any of the following causes:

14 . . .

15 (h) Gross negligence in his or her practice as a physical therapist or
16 physical therapy assistant.

17 (i) . . . violating, or attempting to violate, directly or indirectly, or
18 assisting in or abetting the violating of, or conspiring to violate any provision or
19 term of this chapter or of the State Medical Practice Act.

20 (j) The aiding or abetting of any person to violate this chapter or any
21 regulations duly adopted under this chapter.

22 (k) The aiding or abetting of any person to engage in the unlawful practice
23 of physical therapy.

24 (l) The commission of any fraudulent, dishonest, or corrupt act which is
25 substantially related to the qualifications, functions, or duties of a physical
26 therapist or physical therapy assistant.

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1 7. Section 2655 of the Code states:

2 “As used in this article:

3 (a) "Physical therapist" means a physical therapist licensed by the board.

4 (b) "Physical therapist assistant" means a person who meets the
5 qualifications stated in Section 2655.3 and who is approved by the board to assist
6 in the provision of physical therapy under the supervision of a physical therapist
7 who shall be responsible for the extent, kind, and quality of the services provided
8 by the physical therapist assistant.

9 (c) "Physical therapist assistant" and "physical therapy assistant" shall be
10 deemed identical and interchangeable.

11 8. Section 2655.2 of the Code states:

12 “A physical therapist shall not supervise more physical therapist assistants
13 at any one time than in the opinion of the board can be adequately supervised.
14 Two physical therapist assistants shall be the maximum number of physical
15 therapist assistants supervised by a physical therapist at any one time, but the
16 board may permit the supervision of a greater number by a physical therapist if, in
17 the opinion of the board, there would be adequate supervision and the public's
18 health and safety would be served. In no case, however, shall the total number of
19 physical therapist assistants exceed twice the number of physical therapists
20 regularly employed by a facility at any one time.”

21 9. Section 2655.7 of the Code states:

22 “Notwithstanding Section 2630, a physical therapist assistant may assist in
23 the provision of physical therapy service provided the assistance is rendered under
24 the supervision of a physical therapist licensed by the board.”

25 10. Section 2655.92 of the Code states:

26 “The board may adopt regulations as reasonably necessary to carry out the
27 purposes of this article. The board shall adopt a regulation formulating a
28 definition of the term "adequate supervision" as used in this article.”

11. Section 1398.44 of Title 16 of the California Code of Regulations states:

“1398.44. Adequate Supervision Defined.

“A licensed physical therapist shall at all times be responsible for all physical therapy services provided by the physical therapist assistant. The supervising physical therapist has continuing responsibility to follow the progress of each patient, provide direct care to the patient and to assure that the physical therapist assistant does not function autonomously. Adequate supervision shall include all of the following:

(a) The supervising physical therapist shall be readily available in person or by telecommunication to the physical therapist assistant at all times while the physical therapist assistant is treating patients. The supervising physical therapist shall provide periodic on site supervision and observation of the assigned patient care rendered by the physical therapist assistant.

(b) The supervising physical therapist shall initially evaluate each patient and document in the patient record, along with his or her signature, the evaluation and when the patient is to be reevaluated.

(c) The supervising physical therapist shall formulate and document in each patient's record, along with his or her signature, the treatment program goals and plan based upon the evaluation and any other information available to the supervising physical therapist. This information shall be communicated verbally, or in writing by the supervising physical therapist to the physical therapist assistant prior to initiation of treatment by the physical therapist assistant. The supervising physical therapist shall determine which elements of the treatment plan may be assigned to the physical therapist assistant. Assignment of these responsibilities must be commensurate with the qualifications, including experience, education and training, of the physical therapist assistant.

(d) The supervising physical therapist shall reevaluate the patient as previously determined, or more often if necessary, and modify the treatment, goals

1 and plan as needed. The reevaluation shall include treatment to the patient by the
2 supervising physical therapist. The reevaluation shall be documented and signed
3 by the supervising physical therapist in the patient's record and shall reflect the
4 patient's progress toward the treatment goals and when the next reevaluation shall
5 be performed.

6 (e) The physical therapist assistant shall document each treatment in the
7 patient record, along with his or her signature. The physical therapist assistant
8 shall document in the patient record and notify the supervising physical therapist
9 of any change in the patient's condition not consistent with planned progress or
10 treatment goals. The change in condition necessitates a reevaluation by a
11 supervising physical therapist before further treatment by the physical therapist
12 assistant.

13 (f) Within seven (7) days of the care being provided by the physical
14 therapist assistant, the supervising physical therapist shall review, cosign and date
15 all documentation by the physical therapist assistant or conduct a weekly case
16 conference and document it in the patient record. Cosigning by the supervising
17 physical therapist indicates that the supervising physical therapist has read the
18 documentation, and unless the supervising physical therapist indicates otherwise,
19 he or she is in agreement with the contents of the documentation.

20 (g) There shall be a regularly scheduled and documented case conference
21 between the supervising physical therapist and physical therapist assistant
22 regarding the patient. The frequency of the conferences is to be determined by the
23 supervising physical therapist based on the needs of the patient, the supervisory
24 needs of the physical therapist assistant and shall be at least every thirty calendar
25 days.

26 (h) The supervising physical therapist shall establish a discharge plan. At
27 the time of discharge, or within 7 (seven) days thereafter, a supervising physical
28 therapist shall document in the patient's record, along with his or her signature, the

1 patient's response to treatment in the form of a reevaluation or discharge
2 summary.”

3 12. Section 1399 of Title 16 of the California Code of Regulations states:

4 1399. Requirements for Use of Aides.

5 “A physical therapy aide is an unlicensed person who assists a physical therapist
6 and may be utilized by a physical therapist in his or her practice by performing
7 non-patient related tasks, or by performing patient related tasks.

8 (a) As used in these regulations:

9 (1) A "patient related task" means a physical therapy service
10 rendered directly to the patient by an aide, excluding non-patient related tasks as
11 defined below.

12 (2) A "non-patient related task" means a task related to observation
13 of the patient, transport of patients, physical support only during gait or transfer
14 training, housekeeping duties, clerical duties and similar functions.

15 (b) "Under the orders, direction and immediate supervision" means:

16 (1) Prior to the initiation of care, the physical therapist shall
17 evaluate every patient prior to the performance of any patient related tasks by the
18 aide. The evaluation shall be documented in the patient's record.

19 (2) The physical therapist shall formulate and record in the patient's
20 record a treatment program based upon the evaluation and any other information
21 available to the physical therapist, and shall determine those patient related tasks
22 which may be assigned to an aide. The patient's record shall reflect those patient
23 related tasks that were rendered by the aide, including the signature of the aide
24 who performed those tasks.

25 (3) The physical therapist shall assign only those patient related
26 tasks that can be safely and effectively performed by the aide. The supervising
27 physical therapist shall be responsible at all times for the conduct of the aide while
28 he or she is on duty.

1 (4) The physical therapist shall provide continuous and immediate
2 supervision of the aide. The physical therapist shall be in the same facility as and
3 in immediate proximity to the location where the aide is performing patient
4 related tasks, and shall be readily available at all times to provide advice or
5 instruction to the aide. When patient related tasks are provided a patient by an aide
6 the supervising physical therapist shall at some point during the treatment day
7 provide direct service to the patient as treatment for the patient's condition or to
8 further evaluate and monitor the patient's progress, and so document in the
9 patient's record.

10 (5) The physical therapist shall perform periodic re-evaluation of
11 the patient as necessary and make adjustments in the patient's treatment program.
12 The re-evaluation shall be documented in the patient's record.

13 (6) The supervising physical therapist shall countersign with their
14 first initial and last name, and date all entries in the patient's record, on the same
15 day as patient related tasks were provided by the aide.

16 13. Section 2661.5 (a) of the Code states:

17 "In any order issued in resolution of a disciplinary proceeding before the
18 board, the board may request the administrative law judge to direct any licensee
19 found guilty of unprofessional conduct to pay to the board a sum not to exceed the
20 actual and reasonable costs of the investigation and prosecution of the case".

21 EVENTS, ACTS OR OMISSIONS

22 14. On or about April 21, 2003, the Physical Therapy Board of California
23 received a complaint from John Nativo, Physical Therapy Advisor, Blue Shield of California,
24 alleging that documentation submitted by Washington Outpatient Rehabilitation Center to Blue
25 Shield of California, which included billing for physical therapy services provided by a Physical
26 Therapy Assistant ("PTA"), lacked the required co-signatures of a Supervising Physical
27 Therapist. The Division of Investigation ("DOF") thereafter conducted an investigation on behalf
28 of the Board.

1 15. As part of the investigation, DOI investigators interviewed Nelson Mant
2 Tumanda, PTA 6004, who indicated as follows:

3 A. Tumanda identified himself as the PTA signing as “James
4 Tumanda” in the records. Tumanda described his duties as assisting PTs with patient treatment
5 plans. Tumanda stated that he believed the standard of practice was to have a PT first see and
6 evaluate the patient. Tumanda said the patients assigned to him were and are, routinely seen first
7 and evaluated by a PT who develops their plan of care. If there was no significant therapy or
8 supervision required, the patient was transferred to Tumanda who carried out the PT’s plan of
9 care.

10 B. Tumanda stated that his patients are listed under his name in the
11 appointment schedule. Although his schedule varied, he carried a caseload of about twenty
12 patients a day and often worked a 10 hours day. Tumanda stated that the ideal schedule is two
13 patients every half-hour; however, his schedule was half that because he worked alone. Tumanda
14 said a PT was usually in the clinic during business hours; however, he admitted there were days
15 when no PT was present, for instance, when a PT called in sick.

16 16. Physical Therapy Board consultants and investigators subsequently
17 conducted a records audit at Washington Outpatient Rehabilitation Center. Charts for Patients
18 identified as Patients 1, 11, 12, and 13 were reviewed¹.

19 17. A review of Patient 1’s record revealed that on 06/23/03, Dharmadas
20 performed and signed an Upper Extremity Evaluation Form. A flow sheet of exercises dated
21 07/01/03 – 07/24/03, contained check marks only for each exercise and date of service. There
22 were no signatures by attending therapists. Further, on 07/01/03, 07/03/03, 07/08/03, 07/15/03
23 and 07/22/03, the Flow Chart Treatment Notes were recorded and signed by Tumanda with no
24 co-signature by a supervising physical therapist. Further, a Physical Therapy Progress Evaluation

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26
27
28 1. Names of patients were redacted from the physical therapy records and replaced with a
letter or number as an identifier.

(and Report) (7/25/03) was also performed and signed by Tumanda, without a co-signature by a supervising physical therapist. (Only a physical therapist may perform a progress evaluation).

18. A review of Patient 11's record revealed that on 12/16/02, Dharmadas performed and signed a Lower Extremity Evaluation Form. However, a Flow Chart Treatment Note of 12/31/02 was recorded and signed by Tumanda with no co-signature by a supervising physical therapist.

19. A review of Patient 12's record revealed Flow Chart Treatment Notes of February 3, 6, 10, 12, 19, 2002, October 8, 15, 22, 25, 2002, and May 1, 6, 9, 14, 16, 20, 22, 24, 2002, recorded and signed by Tumanda with no co-signature by a supervising physical therapist. Further, five Physical Therapy Progress Evaluations (and Reports) (03/03/03, 02/03/03, 10/28/02, 05/28/02, 05/15/01, were performed, charted and signed by Tumanda without a co-signature by a supervising physical therapist. (Only a physical therapist may perform a progress evaluation). Moreover, for the patient visits on 02/03/03, 02/10/03, 02/19/03 and 03/03/03, Amy Knight, PT, and Sandhya Dharadas, PT, were on the same work schedule those days, but did not countersign Tumanda's signatures.

20. A review of Patient 13's record revealed that on June 14, 17, 19, 21, 28, 2002, July 2, 23, 24, 26, 29, 2002, and August 2, 2002, the Flow Chart Treatment Notes were recorded and signed by Tumanda with no co-signature by a supervising physical therapist. Either Amy Knight, PT, or Sandhya Dharadas, PT, were present on every one of Patient 13's patient visits. On some of those visits, both Knight and Dharadas were present. Further, three Physical Therapy Progress Evaluations (and Reports) (10/14/02, 08/07/02, 06/24/02) were also performed and signed by Tumanda, with a co-signature by a supervising physical therapist. (However, only a physical therapist may perform a progress evaluation).

21. A review of the work schedules revealed that on 06/21/02, Tumanda had forty-five (45) patients on his schedule. No other PT or PTA worked that day. Present at the clinic that day were Patsy Lotich, OTR, Brandi Alderson, aide, Andrew Goodall, aide, Alicia Stephens, front office, Rupert Lao, aide, Gina Perales, front office, and Kristine Galvez, aide.

1 22. A review of the work schedules revealed that on 07/01/02, Amy Knight,
2 PT, had thirty-one patients scheduled, including five evaluations. Dharmadas had eleven patients
3 scheduled, including six evaluations. Present at the clinic that day were Christina Santiago,
4 office manager, Brandi Alderson, aide, Andrew Goodall, aide, Rupert Lao, aide, and Kristine
5 Galvez, aide.

6 23. A review of the work schedules revealed that on 02/07/03, Tumanda had
7 thirty-one patients on his schedule. Sandy Dharmadas, PT, had twenty-two patients on her
8 schedule. Present at the clinic that day were Patsy Lotich, OTR, Andrew Goodall, aide, Rupert
9 Lao, aide, Krystal Gamab, aide, Christina Santiago, manager and Kristine Galvez, aide.

10 CAUSES FOR DISCIPLINARY ACTION

11 24. Respondent is subject to disciplinary action based upon the events, acts, or
12 omissions, set forth hereinabove, pursuant to Business and Professions Code sections: 2660 (h);
13 and/or 2660 (i); and/or 2660 (j); and/or 2660 (k); and/or for violating or attempting to violate, or
14 assisting in or abetting the violating of, or aiding or abetting or conspiring to violate, section 2630
15 of the Code and/or section 1399 of Title 16 of the California Code of Regulations; and/or for
16 violating or attempting to violate, or assisting in or abetting the violating of, or aiding or abetting
17 or conspiring to violate section 1398.44 of Title 16 of the California Code of Regulations,
18 including subdivision (a), and/or (b), and/or (c), and/or (d), and/or (f), and/or (g), in that:

19 A. As the supervising licensed physical therapist, respondent did not
20 properly supervise all physical therapy services provided by the physical therapist assistant; and/or
21 failed to assure that the physical therapist assistant did not function autonomously [section
22 1398.44 of Title 16 of the California Code of Regulations]; and/or

23 B. As the supervising physical therapist, respondent was not readily
24 available in person or by telecommunication to the physical therapist assistant at all times while
25 the physical therapist assistant was treating patients; and/or as the supervising physical therapist,
26 respondent did provide periodic on site supervision and observation of the assigned patient care
27 rendered by the physical therapist assistant [section 1398.44 (a) of Title 16 of the California Code
28 of Regulations]; and/or

1 C. Respondent failed to document in the patient record, along with her
2 signature, the evaluation and when the patient was to be reevaluated [section 1398.44 (b) of Title
3 16 of the California Code of Regulations]; and/or

4 D. Respondent, as the supervising physical therapist, failed to
5 communicate verbally, or in writing , to the physical therapist assistant, prior to initiation of
6 treatment by the physical therapist assistant; and/or respondent, as the supervising physical
7 therapist, failed to determine which elements of the treatment plan could be assigned to the
8 physical therapist assistant, commensurate with the qualifications, including experience, education
9 and training, of the physical therapist assistant [section 1398.44 (c) of Title 16 of the California
10 Code of Regulations]; and/or

11 E. Respondent, as a supervising physical therapist, allowed the
12 physical therapist assistant to performed Physical Therapy Progress Evaluations (and Reports),
13 which can only be performed by a physical therapist [section 1398.44 (d) of Title 16 of the
14 California Code of Regulations]; and/or

15 F. Respondent, as the supervising physical therapist, failed to, within
16 seven (7) days of the care being provided by the physical therapist assistant, review, cosign and
17 date all documentation by the physical therapist assistant; and/or conduct a weekly case
18 conference and document it in the patient record [section 1398.44 (f) of Title 16 of the California
19 Code of Regulations]; and/or

20 G. Respondent, as the supervising physical therapist, failed to conduct
21 a regularly scheduled and documented case conference between the supervising physical therapist
22 and physical therapist assistant regarding the patient [section 1398.44 (g) of Title 16 of the
23 California Code of Regulations]; and/or

24 H. Respondent, as the supervising physical therapist, allowed the
25 physical therapist assistant to essentially practice independently and autonomously in the clinic
26 with his own schedule and without the required co-signatures or documented patient conferences
27 with respondent [section 2630 of the Code]; and/or

1 I. Respondent, as the supervising physical therapist, failed to properly
2 supervise aides, and/or allowed the physical therapist assistant to supervise aides and other
3 support personnel [section 2630 of the Code and section 1399 of Title 16 of the California Code
4 of Regulations].
5

6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

9 1. Revoking or suspending Physical Therapist License Number PT 25688,
10 issued to SANDHYA DHARMADAS;

11 2. Ordering SANDHYA DHARMADAS to pay the Physical Therapy Board
12 of California the reasonable costs of the investigation and enforcement of this case, pursuant to
13 Business and Professions Code section 2661.5;

14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: December 20, 2005
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18 Original Signed By:
19 STEVEN K. HARTZELL
20 Executive Officer
21 Physical Therapy Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant
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